IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

Crl.MC.No. 282 of 2007()

AGAINST THE JUDGEMENT/ORDER IN CRRP.1626/2004 Dated 28/06/2004

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PETITIONER:

M.P. KHALID, KALLOTH VALAPPIL HOUSE,
CHEKKIKULAM P.O., KANNUR DISTRICT.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENTS:

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1. C. PREMARAJAN, S/O.ANANDAN,
MEETHELE KUNHAMKANDI HOUSE,
EDACHERRY P.O., VATAKARA.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R1 BY ADV. SRI.C.A.CHACKO
R2 BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 282 of 2007

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Dated this the 6th day of February, 2007

O R D E R

The petitioner has been found guilty, convicted and sentenced in a prosecution under Section 138 of the N.I. Act. This Court in revision had upheld the conviction, but modified the sentence. The petitioner now faces a sentence of imprisonment till rising of Court. There is a further direction to pay an amount of Rs.70,000/- as compensation and in default to undergo S.I. for 45 days. The petitioner was directed to appear before the learned Magistrate on 31.8.2004 for execution of the modified sentence.

2. The petitioner has not appeared before the learned Magistrate so far. He submits that he has already paid the amount of Rs.70,000/- to the complainant. If that be so, he should appear before the learned Magistrate along with the complainant/counsel and satisfy the learned Magistrate that the direction for payment of compensation amount has been complied with. Once that direction is complied with, there can be no question of execution of the default sentence. That is already made clear in the decision in **Girish** v.

Muthoot Capital Services (P) Ltd. (2007 (1) KLT 16). I find no merit in the apprehension that the default sentence may still be executed. Substantive sentence of imprisonment till rising of court will now have to be served at any rate. The petitioner and his sureties may also have to face proceedings under Section 446 Cr.P.C., if any has been initiated. No further directions appear to be necessary.

3. This Crl.M.C. is hence dismissed with the above observations.

(R. BASANT)
Judge

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